

DEC 19 2007
PATENT
APPLICATION 10/622,259
ATTORNEY DOCKET 2002P20760US01 (1009-029)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Hausman, Steven Michael
Application # : 10/622,259
Confirmation # : 3269
Filed : 18 July 2003
Application Title : Automatic Configuration of a Remote Modem
Art Unit # : 2182
Latest Examiner : Hassan, Aurangzeb

Mail Stop Petitions 12/20/2007 PCHOMP 00000018 10622259
Commissioner for Patents 01 FC:1464 130.00 OP
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW OFFICE ACTION FINALITY

Applicant respectfully petitions the Commissioner to withdraw the finality of the Office Action dated 19 July 2007 due to that Office Action's lack of clarity regarding grounds of rejection as well as a failure to address the substance of Applicant's arguments traversing rejections of at least each of claims 1-32.

MPEP 707.07 requires that an Office Action must be complete as to all matters, must provide a clear explanation of all actions taken, and must answer in detail the substance of each of the submitted arguments.

The grounds of rejection of each of claims 1-32 is not clear since the present Office Action asserts at Page 3, for example, regarding claim 1 (emphasis added) (the present Office Action makes similar assertions regarding each of independent claims 2, 9, 14, and 26 – see Pages 4-5 regarding claim 2, Page 5 regarding claim 9, Pages 6-7 regarding claim 14 and Page 7 regarding claim 26):

**PATENT
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Boggs teaches the plurality of configuration parameters comprising a mode switch parameter adapted to cause a mode switch of said programmable cable (PLC attached to cable, paragraph [0331]) connectable to a programmable logic controller (PLC) to select between a Freeport mode and a PPI mode (paragraphs [0263 - 0268] describe switching between the two modes).

Yet at Page 15, the present Office Action appears to assert that Boggs is not relied upon as teaching this claimed subject matter. Instead, the present Office Action asserts (emphasis added) at Page 15:

In reference to the limitations argued by the Applicant, the Examiner notes that Boggs is relied upon for a Freeport mode and PPI mode. As cited in the previous action Boggs teaches a switching of a Freeport PPI mode in paragraph [00268], which provides a detailed description of step S3012 of figure 30a that shows a switching of a Freeport - PPI mode. As best understood by the specification of the current application, paragraphs [0011-0013], a Freeport mode is a variation of a first PPI and second PPI protocol. **Teachings of a programmable cable are relied upon from Thomas.** Clearly one of ordinary skill in the art would recognize that Boggs teaches a mode switching of Freeport PPI mode.

It is thus unclear, for example regarding claim 1, whether the claimed subject matter of **“said programmable cable adapted to store” “a plurality of configuration parameters”, that comprise “a mode switch parameter adapted to cause a mode switch of said programmable cable to select between a Freeport mode and a PPI mode”** is being rejected based upon the portions of Boggs applied at Page 3 or some unknown and unspecified portion of Thomas as indicated at Page 15.

In addition, Applicant respectfully submits that the present Office Action fails to respond to all of Applicant's arguments. In traversing a rejection of each of claims 1-32, Applicant presented the following argument that stands unopposed in the present Office Action (see pages 15 and 17 of the Reply):

Applicant respectfully notes that the present Office Action fails to evidence the scope and contents of the prior art as required under *Graham*. The present Office

**PATENT
APPLICATION 10/622,259
ATTORNEY DOCKET 2002P20760US01 (1009-029)**

Action fails to even identify what "the pertinent art" is. Moreover, the present Office Action fails to evidence the level of ordinary skill in the pertinent art. Applicant respectfully traverses the failure of the present Office Action to comply with the requirements of *Graham* and thereby, to provide a *prima facie* rejection under 35 U.S.C. 103.

Since the rejections of each of claims 1-32 are not clear and the present Office Action fails to respond to all of Applicant's arguments, Applicant respectfully submits that the finality of the 19 April 2007 Office Action is premature and respectfully requests a withdrawal of the finality thereof.

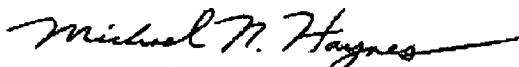
Submitted herewith please find the Petition fee under 37 C.F.R. 1.17 (h), which Applicant respectfully requests be refunded.

CONCLUSION

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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Date: 19 December 2007

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